

REMARKS

Claims 1-42 are pending in this application. Attached hereto is a complete listing of all claims in the application, with their current status listed parenthetically. By this Response, claims 43 and 44 have been added. New claims 43 and 44 add no new matter and are fully supported by the specification as originally filed. In particular: the wireless claim element is supported throughout the specification, for example, at page 7, lines 9-15 and FIGS. 1, 4a-b, and 8; and the ultra-wideband element is supported throughout the specification, for example, at page 6, lines 22-23 to page 7, lines 1-8 and page 30, lines 16-21.

Rejection Under 35 U.S.C. § 103(a)

In paragraphs 1-2 of the Office Action, claims 1-4, 6-10, 13-18, 20-24, 27-32, 33-38, 41 and 42 stand rejected as unpatentable under 35 U.S.C. § 103(a) over U.S. patent 5,887,054 ("Burke") in view of U.S. Patent 5,930,685 ("Straub"), and further in view of U.S. patent 6,512,746 ("Sand"). Applicant respectfully traverses this rejection.

Applicant's independent claim 1 recites:

A method for managing the channel suitability in a multiple access scheme, comprising:
obtaining information relating to noise associated with a channel;
estimating a potential effect of the noise on a transmission quality of the channel based on the obtained information;
assigning a rating to the channel based on the estimated potential effect;
classifying the channel into a grade of service class based on the assigned rating; and
storing information relating to the channel and the associated rating and grade in a database.

Applicant's independent claim 15 is directed to a system, and independent claim 29 is directed to a computer program, with both independent claims containing similar elements as found in claim 1.

In the Office Action, the Examiner states:

"Burke does not disclose estimating a potential effect of the noise on a transmission quality of the channel based on the obtained information. However, Straub discloses a system wherein a Bit Error Rate (BER) of a channel is predicted based on measured noise of the channel (see column 5, lines 18-30). It would have been obvious to one skilled in the art at the time of the invention to implement this feature into Burke because doing so would make the system more robust and reliable."

Applicant agrees with the Examiner that Burke fails to teach all of the elements found in claim 1.

Specifically, Burke teaches a play and plug telephone system. With reference to FIG. 1, the:

"[t]elephone system 10 comprises a telephone adapter 20 and a plurality of telephone "station" sets 15-1 through 15-N. Telephone adapter 20 is coupled to a number of telephone "lines." Lines 1, 2, 3 and 4 are wire pairs representative of facilities provided by a local central office (not shown)" [col. 2, lines 60-65].

"One advantage of the telephone adapter 20 is the ability to provide multi-line service in a home environment without having to incur the expense of re-wiring the home to support additional lines" (col. 3, lines 40-43).

Thus, Burke teaches a conventional telephone system that uses conventional telephone lines for transmitting voice communications.

The secondary reference, Straub, teaches fast automatic link establishment for high frequency communications. "The present invention relates generally to high frequency (HF) communication systems using automatic link establishment (ALE) protocols and waveforms of the type defined in MIL-STD-188-141A Notice 2" (col. 1, lines 10-13).

MIL-STD-188-141A Notice 2 relates to interoperability and performance standards for high frequency radio systems. These radio systems are used for wireless communications. FIG. 1 of Straub shows two stations 100 and 200 communicating via a wireless link.

A. The Law of Obviousness

In order to establish a *prima facie* case of obviousness, three basic criteria must be met:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined), must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure." M.P.E.P. § 2142.

As explained above, the Office Action makes a Section 103 rejection by combining three references, Burke, Straub and Sand. Because a modification to the prior art is required to support this Section 103 rejection, an appropriate motivation to modify must be set forth in order to establish a *prima facie* case of obviousness. *See, In re Fritch*, 972 F.2d 1266 (Fed. Cir. 1992).

I. No motivation to combine references

As discussed above, Burke teaches a conventional play and plug telephone system that uses conventional telephone lines for transmitting voice communications.

In contrast, Straub teaches high frequency wireless communications.

According to M.P.E.P. Section 2141.01, "[I]n order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned."

In Burke, the inventor was concerned with the problem of providing multi-line telephone service without having to install additional telephone lines.

In Straub, the inventor was concerned with the problem of decreasing the time to establish a wireless communication link in a high frequency communication system.

Applicant submits that an inventor concerned with providing multi-line telephone service would not look to high frequency wireless communication technology to solve his problem.

II. No reasonable expectation of success.

The second prong of a *prima facie* case of obviousness requires a reasonable expectation of success. However, according to M.P.E.P. § 2142.01 "if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious."

The Examiner proposes to combine Burke and Straub. As discussed above, Burke relates to telephone communications using telephone lines. In contrast, Straub relates to high frequency wireless radio communications.

Clearly, a fundamental change to Burke's principal of operation is required for a combination with Straub. Thus, there is no reasonable expectation of success.

Finally, the tertiary reference, Sand, does not provide the features lacking in Burke.

In view of the above discussion, Applicant respectfully submits that the Section 103 rejection of claims 1-4, 6-10, 13-18, 20-24, 27-32, 33-38, 41 and 42 has been traversed. Because claims 2-4, 6-10, 13-14, 16-18, 20-24, 27-28, 30-38 and 41-42 depend from either claim 1, 15 or 29, it is respectfully submitted that the rejection of claims 2-4, 6-10, 13-14, 16-18, 20-24, 27-28, 30-38 and 41-42 have been traversed by virtue of their dependency from either claim 1, 15 or 29. M.P.E.P. § 2143.03.

Conclusion

Applicant believes that this Response has addressed all items in the Office Action and now places the application in condition for allowance. Accordingly, favorable reconsideration and allowance of claims 1-44 at an early date is solicited. No fee is believed due with this response. However, the Commissioner is authorized to charge any fee required to our Deposit Account No. 50-3143, in the name of Pulse-Link, Inc. Should any issues remain unresolved, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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Date



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